

JOHN J. FASO
19TH DISTRICT, NEW YORK

1616 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5614

<http://faso.house.gov>



Congress of the United States
House of Representatives

COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON COMMODITY EXCHANGES,
ENERGY, AND CREDIT

SUBCOMMITTEE ON NUTRITION

COMMITTEE ON THE BUDGET

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

VICE CHAIR, SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

April 10, 2018

Mr. David Kautter
Assistant Secretary for Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Mr. Kautter,

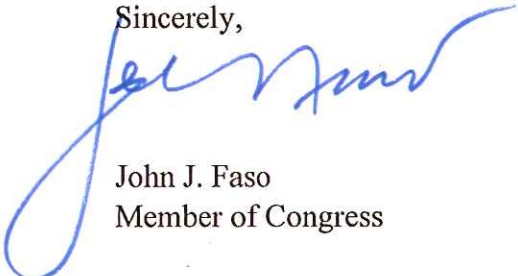
As a follow up to my letter from February 26, I ask you to examine the recent changes to the New York State tax law aimed at shielding New Yorkers from the recent limitation of the state and local tax (SALT) deduction.

As part of the State's Fiscal Year 2019 Budget, state-owned charitable contribution funds dedicated towards health care and education have been created. New Yorkers that itemize their federal returns would be able to contribute to one of these two funds and then claim that contribution as an 85 percent credit on their state tax return. A copy of these enacted tax changes is included with this letter.

I have heard from many constituents who are interested in this issue. As such, I ask that Treasury quickly review the state law changes to determine if these amendments are consistent with federal law. It is imperative that New Yorkers are fully informed as to the potential benefits or shortcomings associated with these changes, and advisory opinions from Treasury and the IRS would help to provide clarity.

Please feel free to contact me to discuss this matter further.

Sincerely,



John J. Faso
Member of Congress

Enclosure 1: Feb. 26 letter

Enclosure 2: Legislative text (Part LL) of NYS tax changes

DELHI DISTRICT OFFICE
111 MAIN STREET
DELHI, NY 13753
PHONE: (607) 746-9537

KINDERHOOK DISTRICT OFFICE
2 HUDSON STREET
PO BOX 775
KINDERHOOK, NY 12106
PHONE: (518) 610-8133

KINGSTON DISTRICT OFFICE
721 BROADWAY
KINGSTON, NY 12401
PHONE: (845) 514-2322

PRINTED ON RECYCLED PAPER

JOHN J. FASO
19TH DISTRICT, NEW YORK

1616 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5614

<http://faso.house.gov>



Congress of the United States
House of Representatives

February 26, 2018

COMMITTEE ON AGRICULTURE
SUBCOMMITTEE ON COMMODITY EXCHANGES,
ENERGY, AND CREDIT

SUBCOMMITTEE ON NUTRITION

COMMITTEE ON THE BUDGET

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

VICE CHAIR, SUBCOMMITTEE ON
RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

Mr. David Kautter
Assistant Secretary for Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Mr. Kautter,

As you know, the limitation on state and local tax deductibility remains a concern to many taxpayers in New York State. The proposed Executive Budget in New York State contains provisions which would amend the state tax law in response to the recently enacted Tax Cuts and Jobs Act. Attached hereto are descriptions of the state proposal from the Executive Budget presentation.

One of these proposals would allow taxpayers to make charitable contributions to new state related entities for health and education-related costs, allowing taxpayers to retain most of the existing deductibility of such contributions. The proposed state tax provisions are intended to replace traditional income tax payments to the State which are no longer fully deductible. The New York proposal and similar plans in other states are apparently modeled in part on existing state programs which award tax credits to residents in exchange for contributions to designated charitable causes. In these instances, I'm advised that the IRS has treated such contributions as deductible under federal law.

Specifically, these contributions would be made to new entities which would turn over such contributions to the state's general fund budget. Similar options would be made available to school districts and municipalities looking to assist taxpayers in retaining deductibility for local tax payments to localities and school districts.

I have had many questions from constituents as to whether the state initiative will be compliant with federal law and regulation governing charitable deductions. Would such payments or contributions meet the test for a charitable deduction since presumably the taxpayer is receiving benefits from the governmental units and school districts for the "contributions" donated?

This matter is of great public interest in a number of states besides New York, including California, New Jersey and Connecticut among others. Please advise whether the IRS has begun evaluating

DELHI DISTRICT OFFICE
111 MAIN STREET
DELHI, NY 13753
PHONE: (607) 746-9537

KINDERHOOK DISTRICT OFFICE
2 HUDSON STREET
PO BOX 775
KINDERHOOK, NY 12106
PHONE: (518) 610-8133

KINGSTON DISTRICT OFFICE
721 BROADWAY
KINGSTON, NY 12401
PHONE: (845) 514-2322

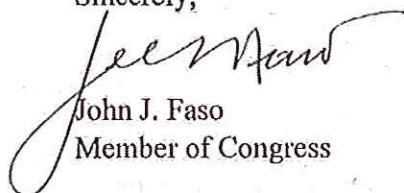
PRINTED ON RECYCLED PAPER

the validity of these and similar proposals? I believe that it is important that the Treasury and the IRS issue guidance or a formal opinion letter whether taxpayer contributions to state authorized trust funds, partially reimbursed by credits reducing state and local income taxes, will be considered deductible for federal tax purposes.

I would appreciate your timely response as these proposals are now under consideration by the state legislature in Albany.

Please feel free to contact me to discuss this matter further.

Sincerely,

A handwritten signature in dark ink, appearing to read "John J. Faso", is written over the printed name. The signature is fluid and cursive, with a large initial "J" and a stylized "F".

John J. Faso
Member of Congress

1 § 4-d. Subparagraph (B) of paragraph 2 of subdivision (b) of section
2 1503 of the tax law, as added by chapter 649 of the laws of 1974, is
3 amended to read as follows:

4 (B) any part of any income from dividends or interest on any kind of
5 stock, securities or indebtedness, except as provided in subparagraphs
6 (A) [and], (B) and (S) of paragraph one hereof;

7 § 4-e. Subparagraph (H) of paragraph 2 of subdivision (b) of section
8 1503 of the tax law, as amended by section 13 of part FF1 of chapter 57
9 of the laws of 2008, is amended to read as follows:

10 (H) in the discretion of the commissioner, any amount of interest
11 directly or indirectly and any other amount directly attributable as a
12 carrying charge or otherwise to subsidiary capital or to income, gains
13 or losses from subsidiary capital, or to the income described in subpar-
14 agraph (S) of paragraph one of this subdivision;

15 § 4-f. Paragraph 2 of subdivision (b) of section 1503 of the tax law
16 is amended by adding new subparagraphs (W) and (X) to read as follows:

17 (W) The amount of any federal deduction allowed pursuant to subsection
18 (c) of section 965 of the internal revenue code.

19 (X) The amount of any federal deduction allowed pursuant to section
20 250(a)(1)(A) of the internal revenue code.

21 § 5. This act shall take effect immediately and shall apply to taxable
22 years beginning on or after January 1, 2017.

23

PART LL

24 Section 1. The state finance law is amended by adding a new section
25 92-gg to read as follows:

26 § 92-gg. Charitable gifts trust fund. 1. There is hereby established
27 in the joint custody of the commissioner of taxation and finance and the
28 state comptroller a special fund pursuant to section eleven of this
29 chapter to be known as the "charitable gifts trust fund".

30 2. Moneys in the charitable gifts trust fund shall be kept separate
31 from and shall not be commingled with any other moneys in the custody of
32 the comptroller or the commissioner of taxation and finance. Provided,
33 however that any moneys of the fund not required for immediate use may,
34 at the discretion of the comptroller, in consultation with the director
35 of the budget, be invested by the comptroller in obligations of the
36 United States or the state. The proceeds of any such investment shall be
37 retained by the fund as assets to be used for purposes of the fund.

38 3. Except as set forth in subdivisions two and four of this section,
39 no moneys from the charitable gifts trust fund shall be transferred to
40 any other fund, nor shall moneys from the fund be used to make payments
41 for any purpose other than the purposes set forth in subdivisions two
42 and four of this section.

43 4. The charitable gifts trust fund shall have two separate and
44 distinct accounts, as set forth in paragraphs a and b of this subdivi-
45 sion. Moneys in each of the accounts shall be kept separate from and
46 shall not be commingled with any other moneys of any other account with-
47 in the fund.

48 a. The "health charitable account" shall consist of monetary grants,
49 gifts or bequests received by the state, and all other moneys credited
50 or transferred thereto from any other fund or source. Moneys of such
51 account shall only be expended for the support of services relating to
52 primary, preventive, and inpatient health care, dental and vision care,
53 hunger prevention and nutritional assistance, and other services for New
54 York state residents with the overall goal of ensuring that New York

1 state residents have access to quality health care and other related
2 services.

3 b. The "elementary and secondary education charitable account" shall
4 consist of monetary grants, gifts or bequests received by the state for
5 the support of elementary and secondary education of children enrolled
6 in public school districts in the state and all other moneys credited or
7 transferred thereto from any other fund or source. Moneys of such
8 account shall only be expended for the provision of elementary and
9 secondary education of children in the state.

10 § 2. Credits for certain charitable contributions to Health Research,
11 Inc. 1. Charitable monetary contributions to Health Research, Inc.
12 (hereinafter "the corporation") that conform to the provisions of this
13 subdivision shall be considered qualified contributions for purposes of
14 the tax credit available pursuant to subsection (iii) of section 606 of
15 the tax law.

16 (a) Applications for contribution authorization certificates.
17 Contributors seeking to make a qualified contribution to the corporation
18 shall apply to the corporation for a contribution authorization certifi-
19 cate for such contribution. Such application shall be in the form and
20 manner prescribed by the corporation. The corporation may allow contrib-
21 utors to make multiple applications on the same form, provided that each
22 contribution listed on such application shall be treated as a separate
23 application and that the corporation shall issue separate contribution
24 authorization certificates for each such application.

25 (b) Contribution authorization and receipt certificates. (i) Issuance
26 of certificates. The president of the corporation shall issue contribu-
27 tion authorization certificates in two phases. In phase one, which
28 begins on the first day of January and ends on the thirtieth day of
29 September, the president of the corporation shall accept applications
30 for contribution authorization certificates, but shall not issue any
31 such certificates. Commencing after the first day of October, the pres-
32 ident of the corporation shall issue contribution authorization certifi-
33 cates for applications received during phase one, provided that if the
34 aggregate total of the contributions for which applications have been
35 received during phase one exceeds the amount of the contribution cap in
36 paragraph (e) of this subdivision, the authorized contribution amount
37 listed on each contribution authorization certificate shall equal the
38 pro-rata share of the contribution cap. If the contribution cap is not
39 exceeded, phase two commences on October first and ends on November
40 fifteenth, during which period the president of the corporation shall
41 issue contribution authorization certificates on a first-come first-
42 served basis based upon the date the corporation received the contribu-
43 tor's application for such certificate; provided, however, that if on
44 any day the corporation receives applications requesting contribution
45 authorization certificates for contributions that in the aggregate
46 exceed the amount of the remaining available contribution cap on such
47 day, the authorized contribution amount listed in each contribution
48 authorization certificate shall be the contributor's pro-rata share of
49 the remaining available contribution cap. For purposes of determining a
50 contributor's pro-rata share of remaining available contribution cap,
51 the head of the corporation shall multiply the amount of remaining
52 available contribution cap by a fraction, the numerator of which equals
53 the total contribution amount listed on the contributor's application
54 and the denominator of which equals the aggregate amount of contrib-
55 utions listed on the applications for contribution authorization certifi-
56 cates received on such day. Contribution authorization certificates

1 for applications received during phase one shall be mailed no later than
2 the fifteenth day of October. Contribution authorization certificates
3 for applications received during phase two shall be mailed within twenty
4 days of receipt of such applications. Provided, however, that no
5 contribution authorization certificates for applications received during
6 phase two shall be issued until all of the contribution authorization
7 certificates for applications received during phase one have been
8 issued.

9 (ii) Contribution authorization certificate contents. Each contrib-
10 ution authorization certificate shall state: (A) the date such certif-
11 icate was issued; (B) the date by which the authorized contributions
12 listed in the certificate must be made, which shall be no later than
13 November thirtieth of the year for which the contribution authorization
14 certificate was issued; (C) the contributor's name and address; (D) the
15 amount of authorized contributions; (E) the contribution authorization
16 certificate's certificate number; and (F) any other information that the
17 president of the corporation or the commissioner of taxation and finance
18 deems necessary.

19 (c) Certificate of receipt. If a contributor makes an authorized
20 contribution to the corporation no later than the date by which such
21 authorized contribution is required to be made, the corporation shall,
22 within 30 days of receipt of the authorized contribution, issue to the
23 contributor a written certificate of receipt. Each certificate of
24 receipt shall state: (i) the name and address of the corporation; (ii)
25 the contributor's name and address; (iii) the date for each contrib-
26 ution; (iv) the amount of each contribution and the corresponding
27 contribution authorization certificate number; (v) the total amount of
28 contributions; and (vi) any other information that the commissioner of
29 taxation and finance deems necessary.

30 (d) Notification to the department of the issuance of a certificate of
31 receipt. Upon the issuance of a certificate of receipt, the corporation
32 shall, within thirty days of issuing the certificate of receipt, provide
33 the department of taxation and finance with notification of the issuance
34 of such certificate in the form and manner prescribed by the department
35 of taxation and finance.

36 (e) Contribution cap. The maximum permitted contributions under this
37 section available annually for calendar year two thousand eighteen and
38 all following years shall be ten million dollars.

39 2. Use of authorized contributions. The corporation shall develop
40 policies and procedures to ensure that all contributions for which
41 certificates of receipt have been issued are expended only for one or
42 more of the following charitable health purposes: to support and supple-
43 ment laboratory facilities and programs, including, but not limited to,
44 laboratory testing and scientific research; to support and supplement
45 bioinformatics programs, including, but not limited to, developing
46 public health data analytical strategies; and to support and supplement
47 other public health activities.

48 § 3. Credits for certain charitable contributions to University Foun-
49 dations. 1. Charitable monetary contributions to the State University
50 of New York Impact Foundation (hereinafter "the SUNY foundation") or the
51 Research Foundation of the City University of New York (hereinafter "the
52 CUNY foundation") that conform to the provisions of this subdivision
53 shall be considered qualified contributions for purposes of the tax
54 credit available pursuant to subsection (iii) of section 606 of the tax
55 law.

1 (a) Applications for contribution authorization certificates.
2 Contributors seeking to make a qualified contribution to the SUNY foun-
3 dation or the CUNY foundation shall apply to such foundation for a
4 contribution authorization certificate for such contribution. Such
5 application shall be in the form and manner prescribed by the corpo-
6 ration. Each foundation may allow contributors to make multiple applica-
7 tions on the same form, provided that each contribution listed on such
8 application shall be treated as a separate application and that the
9 foundation shall issue separate contribution authorization certificates
10 for each such application.

11 (b) Contribution authorization and receipt certificates. (i) Issuance
12 of certificates. The head of each foundation shall issue contribution
13 authorization certificates in two phases. In phase one, which begins on
14 the first day of January and ends on the thirtieth day of September, the
15 head of each foundation shall accept applications for contribution
16 authorization certificates, but shall not issue any such certificates.
17 Commencing after the first day of October, the head of each foundation
18 shall issue contribution authorization certificates for applications
19 received during phase one, provided that if the aggregate total of the
20 contributions for which applications have been received during phase one
21 exceeds the amount of the contribution cap in paragraph (e) of this
22 subdivision, the authorized contribution amount listed on each contrib-
23 ution authorization certificate shall equal the pro-rata share of the
24 contribution cap. If the contribution cap is not exceeded, phase two
25 commences on October first and ends on November fifteenth, during which
26 period the head of each foundation shall issue contribution authori-
27 zation certificates on a first-come first-served basis based upon the
28 date the foundation received the contributor's application for such
29 certificate; provided, however, that if on any day the SUNY foundation
30 or the CUNY foundation receives applications requesting contribution
31 authorization certificates for contributions that in the aggregate
32 exceed the amount of the remaining available contribution cap on such
33 day, the authorized contribution amount listed in each contribution
34 authorization certificate shall be the contributor's pro-rata share of
35 the remaining available contribution cap. For purposes of determining a
36 contributor's pro-rata share of remaining available contribution cap,
37 the head of each foundation shall multiply the amount of remaining
38 available contribution cap by a fraction, the numerator of which equals
39 the total contribution amount listed on the contributor's application
40 and the denominator of which equals the aggregate amount of contrib-
41 utions listed on the applications for contribution authorization certif-
42 icates received on such day. Contribution authorization certificates for
43 applications received during phase one shall be mailed no later than the
44 fifteenth day of October. Contribution authorization certificates for
45 applications received during phase two shall be mailed within twenty
46 days of receipt of such applications. Provided, however, that no
47 contribution authorization certificates for applications received during
48 phase two shall be issued until all of the contribution authorization
49 certificates for applications received during phase one have been
50 issued.

51 (ii) Contribution authorization certificate contents. Each contrib-
52 ution authorization certificate shall state: (A) the date such certif-
53 icate was issued; (B) the date by which the authorized contributions
54 listed in the certificate must be made, which shall be no later than
55 November thirtieth of the year for which the contribution authorization
56 certificate was issued; (C) the contributor's name and address; (D) the



1 amount of authorized contributions; (E) the contribution authorization
2 certificate's certificate number; and (F) any other information that the
3 head of the respective foundation or the commissioner of taxation and
4 finance deems necessary.

5 (c) Certificate of receipt. If a contributor makes an authorized
6 contribution to the SUNY foundation or the CUNY foundation no later than
7 the date by which such authorized contribution is required to be made,
8 such foundation shall, within thirty days of receipt of the authorized
9 contribution, issue to the contributor a written certificate of receipt.
10 Each certificate of receipt shall state: (i) the name and address of the
11 foundation; (ii) the contributor's name and address; (iii) the date for
12 each contribution; (iv) the amount of each contribution and the corre-
13 sponding contribution authorization certificate number; (v) the total
14 amount of contributions; and (vi) any other information that the commis-
15 sioner of taxation and finance deems necessary.

16 (d) Notification to the department of the issuance of a certificate of
17 receipt. Upon the issuance of a certificate of receipt, the respective
18 foundation shall, within thirty days of issuing the certificate of
19 receipt, provide the department of taxation and finance with notifica-
20 tion of the issuance of such certificate in the form and manner
21 prescribed by the department of taxation and finance.

22 (e) Contribution cap. The maximum permitted contributions under this
23 section available annually for calendar year two thousand eighteen and
24 all following years shall be ten million dollars for the SUNY foundation
25 and ten million dollars for the CUNY foundation.

26 2. Use of authorized contributions. The SUNY foundation and the CUNY
27 foundation shall develop policies and procedures to ensure that all
28 contributions for which certificates of receipt have been issued are
29 expended only to support programs benefiting students enrolled at the
30 state university of New York and the city university of New York,
31 respectively. Provided however, contributions may not be used for schol-
32 arships or tuition assistance.

33 § 4. Section 606 of the tax law is amended by adding a new subsection
34 (iii) to read as follows:

35 (iii) Credit for contributions to certain funds. For taxable years
36 beginning on or after January first, two thousand nineteen, an individ-
37 ual taxpayer shall be allowed a credit against the tax imposed under
38 this article for an amount equal to eighty-five percent of the sum of:
39 (1) the amount contributed by the taxpayer during the immediately
40 preceding taxable year to any or all of the following accounts within
41 the charitable gifts trust fund set forth in section ninety-two-gg of
42 the state finance law: the health charitable account established by
43 paragraph a of subdivision four of section ninety-two-gg of the state
44 finance law, or the elementary and secondary education charitable
45 account established by paragraph b of subdivision four of section nine-
46 ty-two-gg of the state finance law; (2) the amount of qualified contrib-
47 utions made by the taxpayer to Health Research, Inc. in accordance with
48 section two of the chapter of the laws of two thousand eighteen that
49 added this subsection; and (3) the amount of qualified contributions
50 made by the taxpayer to the State University of New York Impact Founda-
51 tion and/or the Research Foundation of the City University of New York
52 in accordance with section three of the chapter of the laws of two thou-
53 sand eighteen that added this subsection.

54 § 5. Section 1604 of the education law is amended by adding a new
55 subdivision 44 to read as follows:

1 44. To establish a charitable fund, by resolution of the trustees, to
2 receive unrestricted charitable monetary donations made to such fund for
3 use by the district for public educational purposes. The monies of such
4 charitable fund shall be deposited and secured in the manner provided by
5 section ten of the general municipal law. The monies of such charitable
6 fund may be invested in the manner provided by section eleven of the
7 general municipal law. Any interest earned or capital gain realized on
8 the money so invested shall accrue to and become part of such fund. At
9 such time and in such amounts as determined by the trustees, the monies
10 of such charitable fund shall be transferred to the school district's
11 general fund for expenditure consistent with the charitable purposes of
12 the fund, provided that the amount of taxes to be levied by the school
13 district for any school year shall be determined without regard to any
14 such transfer. The school district shall maintain an accounting of all
15 such deposits, interest or capital gain, transfers, and expenditures.

16 § 6. Section 1709 of the education law is amended by adding a new
17 subdivision 12-b to read as follows:

18 12-b. To establish a charitable fund, by resolution of the board, to
19 receive unrestricted charitable monetary donations made to such fund for
20 use by the district for public educational purposes. The monies of such
21 charitable fund shall be deposited and secured in the manner provided by
22 section ten of the general municipal law. The monies of such charitable
23 fund may be invested in the manner provided by section eleven of the
24 general municipal law. Any interest earned or capital gain realized on
25 the money so invested shall accrue to and become part of such fund. At
26 such time and in such amounts as determined by the board, the monies of
27 such charitable fund shall be transferred to the school district's
28 general fund for expenditure consistent with the charitable purposes of
29 the fund, provided that the amount of taxes to be levied by the school
30 district for any school year shall be determined without regard to any
31 such transfer. The school district shall maintain an accounting of all
32 such deposits, interest or capital gain, transfers, and expenditures.

33 § 7. Section 2590-h of the education law is amended by adding a new
34 subdivision 54 to read as follows:

35 54. To establish a charitable fund to receive unrestricted charitable
36 monetary donations made to such fund for use by the city school district
37 for public educational purposes. The monies of such charitable fund
38 shall be deposited and secured in the manner provided by section ten of
39 the general municipal law. The monies of such charitable fund may be
40 invested in the manner provided by section eleven of the general munici-
41 pal law. Any interest earned or capital gain realized on the money so
42 invested shall accrue to and become part of such fund. At such time and
43 in such amounts as determined by the chancellor, the monies of such
44 charitable fund shall be transferred to the city school district's
45 general fund for expenditure consistent with the charitable purposes of
46 the fund, provided that the amount of taxes to be levied by the city for
47 any school year shall be determined without regard to any such transfer.
48 The city school district shall maintain an accounting of all such depos-
49 its, interest or capital gain, transfers, and expenditures.

50 § 8. The general municipal law is amended by adding two new sections
51 6-t and 6-u to read as follows:

52 § 6-t. Charitable gifts reserve fund. 1. The governing board of any
53 county or New York city may establish a reserve fund to be known as a
54 charitable gifts reserve fund.

55 2. Such fund may receive unrestricted charitable monetary contrib-
56 utions and the moneys in such fund shall be deposited and secured in the

1 manner provided by section ten of this article. The governing board, or
2 the chief fiscal officer of such county, or New York city, if the
3 governing board shall delegate such duty to him or her, may invest the
4 moneys in such fund in the manner provided by section eleven of this
5 article. Any interest earned or capital gain realized on the money so
6 deposited or invested shall accrue to and become part of such fund. The
7 separate identity of such fund shall be maintained whether its assets
8 consist of cash or investments or both.

9 3. At the end of the fiscal year, the governing board of the county or
10 New York city, within sixty days of the close of the fiscal year, shall
11 transfer the funds to the general fund or other fund of the municipal
12 corporation, so that the funds may be used for charitable purposes.

13 4. The governing board shall establish a procedure for contributions
14 to the charitable gifts reserve fund, which shall include the provision
15 of a written acknowledgment of the gift to the contributor.

16 § 6-u. Charitable gifts reserve fund. 1. The governing board of any
17 city with a population less than one million, town or village may estab-
18 lish a reserve fund to be known as a charitable gifts reserve fund.

19 2. Such fund may receive unrestricted charitable monetary contribu-
20 tions and the moneys in such fund shall be deposited and secured in the
21 manner provided by section ten of this article. The governing board, or
22 the chief fiscal officer of such town, village or city, if the governing
23 board shall delegate such duty to him or her, may invest the moneys in
24 such fund in the manner provided by section eleven of this article. Any
25 interest earned or capital gain realized on the money so deposited or
26 invested shall accrue to and become part of such fund. The separate
27 identity of such fund shall be maintained whether its assets consist of
28 cash or investments or both.

29 3. At the end of the fiscal year, the governing board of the town,
30 village or city, within sixty days of the close of the fiscal year, may
31 transfer the funds to the general fund or other fund of the municipal
32 corporation, so that the funds may be used for charitable purposes.

33 4. The governing board shall establish a procedure for contributions
34 to the charitable gifts reserve fund, which shall include the provision
35 of a written acknowledgment of the gift to the contributor.

36 § 9. The real property tax law is amended by adding a new section
37 980-a to read as follows:

38 § 980-a. Tax credits for contributions to certain funds. 1. (a) A
39 municipal corporation that has established a fund pursuant to subdivi-
40 sion forty-four of section sixteen hundred four of the education law,
41 subdivision twelve-b of section seventeen hundred nine of the education
42 law, subdivision fifty-four of section twenty-five hundred ninety-h of
43 the education law, or section six-t or six-u of the general municipal
44 law, may adopt a local law, or in the case of a school district, a
45 resolution, authorizing a tax credit to be provided pursuant to this
46 section for contributions to such fund. For purposes of this section, a
47 municipal corporation that has established such a fund and authorized
48 such a credit shall be referred to as a "participating" municipal corpo-
49 ration.

50 (b) On and after a date specified in the local law or resolution
51 adopted by a participating municipal corporation pursuant to paragraph
52 (a) of this subdivision, the owner or owners of real property shall be
53 allowed a credit against the real property taxes of a participating
54 municipal corporation that have been imposed upon such property. The
55 amount of such credit shall equal ninety-five percent, or such lesser
56 allowable percentage credit as may have been established pursuant to

1 paragraph (c) of this subdivision, of the amount contributed by one or
2 more of the owners of such property during the "associated credit year"
3 as defined in this section, to any or all of the funds established by
4 such municipal corporation, subject to the limit established pursuant to
5 paragraph (c) of this subdivision, if any.

6 (c) The participating municipal corporation may establish a limit upon
7 the amount or percentage of such credit to be allowed in any given
8 fiscal year, in which case the amount of such credit shall not exceed
9 any limit so established. Any such limit shall be adopted by local law,
10 or in the case of a school district, by resolution, which local law or
11 resolution may either be the same as or separate from the local law or
12 resolution that initially authorized the credit. Once such a limit has
13 been adopted, it may be amended or repealed thereafter by local law, or
14 in the case of a school district, by resolution, provided that any such
15 amendment or repeal shall only apply to taxes of the participating
16 municipal corporation for fiscal years commencing after the adoption of
17 such local law or resolution. A copy of any local law or resolution
18 establishing, amending or repealing such a limit shall be provided to
19 the collecting officer who collects the taxes of the participating
20 municipal corporation.

21 2. For purposes of this section, the "associated credit year" shall be
22 the twelve-month period during which the owner of the property has made
23 a contribution described in subdivision one of this section that ends on
24 the last day prescribed by law on which the taxes of the participating
25 municipal corporation may be paid without interest or penalties, subject
26 to the following:

27 (a) Where such taxes are payable in installments, such twelve-month
28 period shall end on the last day prescribed by law on which the first
29 installment of such taxes may be paid without interest or penalties.

30 (b) Where a participating municipal corporation is a city school
31 district that is subject to article fifty-two of the education law, such
32 twelve-month period shall end on the last day prescribed by law on which
33 city taxes may be paid without interest or penalties, or if applicable,
34 on the last day prescribed by law on which the first installment of such
35 taxes may be paid without interest or penalties.

36 (c) Each such twelve-month period shall be determined without regard
37 to the possibility that the period prescribed by law for paying such
38 taxes without interest or penalties may be extended due to a delay in
39 the first publication of the collecting officer's notice as provided by
40 sections thirteen hundred twenty-two or thirteen hundred twenty-four of
41 this chapter or a comparable law, or due to an executive order issued in
42 connection with a state disaster emergency as provided by subdivision
43 two of section nine hundred twenty-five-a of this chapter.

44 3. The credit authorized by this section shall be administered as
45 follows:

46 (a) The administrator of the fund or its designated agent shall, upon
47 receiving a contribution to the fund specified in subdivision one of
48 this section during a credit year, furnish the property owner with an
49 acknowledgement in duplicate. Such acknowledgement shall be provided on
50 a form prescribed by the commissioner and shall specify the amount of
51 the contribution, the name and address of the donor, the date the
52 contribution was received, the authorized signature of the administrator
53 or agent, and such other information as the commissioner shall require.

54 (b) After receiving such an acknowledgement, the property owner may
55 present it to the appropriate collecting officer on or before the last
56 day prescribed by law on which taxes may be paid without interest or



1 penalty, together with a credit claim on a form prescribed by the
2 commissioner. Such credit claim form shall contain the name of the
3 property owner or owners, the date and amount of the contributions made
4 to the account during the associated credit year, the address of the
5 property to which the credit claim relates, and such other information
6 as the commissioner shall require. Notwithstanding any provision of law
7 to the contrary, the collecting officer shall thereupon be authorized
8 and directed to grant the property owner a tax credit equal to ninety-
9 five percent, or such lesser allowable percentage credit as may have
10 been established pursuant to paragraph (c) of subdivision one of this
11 section, of the amount of the contributions made during the associated
12 credit year as specified on the acknowledgement, and to reduce the tax
13 liability on the parcel accordingly, provided that such credit may not
14 exceed any percentage credit or other limit established by the partic-
15 ipating municipal corporation pursuant to paragraph (c) of subdivision
16 one of this section, if such a limit has been established, and may not
17 exceed the property taxes due or paid that are attributable to the
18 participating municipal corporation. Where taxes are payable in install-
19 ments, if the credit exceeds the amount of the first installment, the
20 excess shall be applied to future installments until exhausted. The
21 participating municipal corporation may adopt a local law, or in the
22 case of a school district, a resolution, providing that where a property
23 owner submits a credit claim form to the collecting officer prior to the
24 collecting officer's receipt of the tax warrant, or such other date as
25 may be specified in such local law or resolution, the associated proper-
26 ty tax bill shall reflect a reduction in the tax liability equal to the
27 credit authorized by this section; provided however that if the collect-
28 ing officer is not employed by the participating municipal corporation,
29 such local law or resolution shall not take effect unless and until the
30 governing body of the municipal corporation that employs the collecting
31 officer has adopted a resolution agreeing thereto. The department of
32 financial services, in consultation with the department, shall promul-
33 gate regulations related to the adjustment of mortgage escrow accounts
34 to reflect the credits provided pursuant to this section.

35 (c) If the property owner fails to present the acknowledgment and
36 credit claim form to the collecting officer on or before the last day
37 prescribed by law on which taxes may be paid without interest or penal-
38 ty, he or she may present the same to the chief fiscal officer or chief
39 financial officer of the participating municipal corporation, or to a
40 member of his or her staff. Such officer shall thereupon be authorized
41 and directed to grant the property owner a refund of property taxes in
42 the amount of the credit, which amount shall be equal to ninety-five
43 percent, or such lesser allowable percentage credit as may have been
44 established pursuant to paragraph (c) of subdivision one of this
45 section, of the total contributions made during the associated credit
46 year, provided that such refund shall not exceed the property taxes that
47 have been paid on the property or any percentage credit or other limit
48 established pursuant to paragraph (c) of subdivision one of this
49 section, if any, and may not exceed the property taxes due or paid that
50 are attributable to the participating municipal corporation. Provided
51 further, that no interest shall be payable on such refund if paid within
52 forty-five days of the receipt of the acknowledgment and credit claim
53 form. The owner of the property may file such refund claim with the
54 authorized officer at any time during the three year period beginning
55 immediately after the last day such taxes were payable without interest
56 or penalty.



1 4. The amount of the itemized deduction that may be claimed by a
2 taxpayer under section six hundred fifteen of the tax law with respect
3 to the taxes paid on such property may not exceed the amount of the
4 taxes of a participating municipal corporation that have been imposed
5 upon such property minus the amount of the credit provided pursuant to
6 this section.

7 § 10. This act shall take effect immediately; provided, however, that
8 the amendments to section 2590-h of the education law made by section
9 seven of this act shall not affect the expiration and reversion of such
10 section and shall expire and be deemed repealed therewith; and provided
11 further that if section 2590-h of the education law expires or is
12 repealed and is reverted prior to the effective date of this act,
13 section seven of this act shall not take effect.

14 PART MM

15 Section 1. The tax law is amended by adding a new article 24 to read
16 as follows:

17 ARTICLE 24

18 EMPLOYER COMPENSATION EXPENSE PROGRAM

19 Section 850. Definitions.

20 851. Employer election.

21 852. Imposition and rate of tax.

22 853. Pass through of tax.

23 854. Payment of tax.

24 855. Employee credit.

25 856. Deposit and disposition of revenue.

26 857. Procedural provisions.

27 § 850. Definitions. For purposes of this article:

28 (a) Employer. Employer means an employer that is required by section
29 six hundred seventy-one of this chapter to deduct and withhold tax from
30 wages.

31 (b) Electing employer. Electing employer is an employer that has made
32 the election provided for in section eight hundred fifty-one of this
33 article.

34 (c) Payroll expense. Payroll expense means wages and compensation as
35 defined in sections 3121 and 3231 of the internal revenue code (without
36 regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)), paid to all
37 covered employees.

38 (d) Covered employee. Covered employee means an employee of an elect-
39 ing employer who is required to have amounts withheld under section six
40 hundred seventy-one of this chapter and receives annual wages and
41 compensation from his or her employer of more than forty thousand
42 dollars annually.

43 § 851. Employer election. (a) Any employer who employs covered employ-
44 ees in the state shall be allowed to make an annual election to be taxed
45 under this article.

46 (b) In order to be effective, the annual election must be made by (1)
47 if the employer is not a corporation, by any member, owner, or other
48 individual with authority to bind the entity or sign returns required
49 pursuant to section six hundred fifty-three of this chapter; or (2) if
50 the employer is a for-profit or not-for-profit corporation, by any offi-
51 cer or manager of the employer who is authorized under the law of the
52 state where the corporation is incorporated or under the employer's
53 organizational documents to make the election and who represents to
54 having such authorization under penalty of perjury; or (3) if the